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Item 4 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED
ARAB TERRITORIES, INCLUDING PALESTINE

Written statement submitted by the Arab Lawyers Union,
a non-governmental organization in consultative
status (category II)

The Secretary-General has received the following written statement,
which is distributed in accordance with Economic and Social Council
resolution 1296 (XLIV).

[25 March 1996]

1. The report by Mr. Halinen, the Special Rapporteur who investigated Israeli violations of the principles of international law and violations of human rights in the Palestinian territories (E/CN.4/1996/18), as well as the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/50/463) which was submitted to the General Assembly of the United Nations, clearly confirm the following:

(a) Israel has refused to cooperate in any way and has prevented the officials delegated by the Commission on Human Rights and the General Assembly from carrying out the tasks assigned to them;

(b) Israel has refused to apply the Fourth Geneva Convention in the occupied territories;

(c) The Israeli authorities are still refusing to comply with the resolutions of the Commission on Human Rights, the General Assembly and the Security Council of the United Nations.

2. The two reports clearly show that the human rights situation in the Palestinian and Arab territories that Israel has been occupying by force since 1967 is constantly deteriorating as a result of the human rights violations that the occupation authorities are committing in all fields, exactly as they were doing before the Declaration of Principles and the other agreements were signed by the Palestine Liberation Organization and the Government of Israel.

3. Those who argue that negotiations are currently taking place between the two parties should realize that a distinction must be drawn between negotiations and the peace process, the outcome of which has not yet been decided, and the human rights situation which is a matter of ongoing concern due to the manner in which the occupation authorities are using the "peace process" as a screen to conceal their practices so that they can engage in further acts of repression.

4. In actual fact, what is really happening is the opposite of what the international community was expecting, namely that the peace process would lead to the cessation of the practices of the Israeli authorities, who are exploiting the sincere desire of some to ensure the success of the negotiations in order to continue their violations of the most fundamental rights in the occupied territories.

5. The violations that the occupation authorities are committing against the Palestinian people are well known and include random arrests and detentions, deliberate acts of murder, the demolition of houses in the wake of the military operations that some Palestinian groups are undertaking, the ban on travel between Palestinian towns and villages, and the refusal to allow Palestinian workers to travel to their places of work in Israel, which is having disastrous effects on their living conditions.

6. At the same time, the world is witnessing the imposition of collective punishments exemplified by the blockade and closure of the Palestinian territories with a view to their economic strangulation. This behaviour has led to the deaths of a number of Palestinian citizens and the starvation of an entire people due to, inter alia, the shortage of medicines and the non-availability of the necessary health services while, at the same time, thousands of detainees are still being held in custody.

7. In this connection, it is sufficient to refer to the content of the report by "Betzelem", the Israeli Information Centre on Human Rights in the Occupied Territories, which stated that "the violations include the arbitrary detention, by a simple administrative order, of Palestinian opponents of the Oslo Agreements, the confiscation of land for the purpose of establishing special corridors for Israeli settlers, and a series of punishments, including collective punishments, exemplified by the closure of the territories in the West Bank, the imposition of a curfew and the demolition of houses".

8. The policy of closing the territories, which has grave consequences in view of the threat of death and starvation that it poses to their population, is tantamount to an act of genocide to which the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide apply. The policy of confiscating Palestinian-owned land in order to expand Israeli settlements

in the occupied territories also constitutes a further violation of the principles of international law and the provisions of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, since the establishment of Israeli settlements in the occupied territories is illegal under international law.

9. In this connection, reference must be made to the numerous resolutions adopted by the United Nations Security Council, the General Assembly and the Commission on Human Rights, which have rejected any transformation of the geographic or demographic features of the City of Jerusalem and regard any such transformation as null and void. However, Israel is continuing to pursue its policy of increasing the number of Israeli settlers and reducing the number of Palestinians with a view to changing the city's demographic composition.

10. With regard to southern Lebanon, Israel is committing crimes every day by carrying out air and artillery bombardments of civilian agglomerations and peaceful villages in which it is killing women, elderly persons and children, thereby violating not only their right to life but also Lebanon's territorial sovereignty. The southern Lebanese coast is still being blockaded and Lebanese fishermen are being prevented from engaging in their profession and earning a living. Moreover, Lebanese, Palestinian and other Arab prisoners are still being held in Israeli prisons where many of them are facing chronic diseases and even death.

11. With regard to the Golan, we will confine ourselves to drawing attention to the Israeli practices in this occupied part of the Arab territories, as exemplified by the detention of its inhabitants, who are being prevented from contacting their relatives outside the Golan. We also wish to draw attention to the depletion of its natural resources, especially water, by Israel.

12. In conclusion, the Arab Lawyers Union commends the content of the report of the Special Rapporteur on the occupied territories, as well as the content of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, and calls for the application of the provisions of the Fourth Geneva Convention, particularly in Jerusalem, the Golan and southern Lebanon.



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COMMISSION ON HUMAN RIGHTS
Fifty-second session
Item 12 of the provisional agenda

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE
TO COMBAT RACISM AND RACIAL DISCRIMINATION

Written statement submitted by Human Rights Watch, a non-governmental
organization in consultative status (category II)

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[22 March 1996]

1. Under the Commission's agenda item dealing with the issues of racial
discrimination, Human Rights Watch would like to call the members' attention
to racial discrimination problems in the United States.

Race discrimination in the United States criminal justice system

2. The over-representation of African American males in the criminal justice
system has been well documented. A national survey in 1995 by the Sentencing
Project, a private research group, found that almost one in three
(32.2 per cent) young African American males (aged 20-29) is under criminal
justice supervision on any given day - in prison or jail, or on probation or
parole. ^{1/} The Sentencing Project's 1990 study found one in four young
African Americans under criminal justice supervision, revealing a trend toward
increased incarceration or supervision during the five-year period between
reports. ^{2/}

3. The growing proportion of African Americans and Americans of Hispanic heritage within the criminal justice system is the direct result of the enforcement of certain drug laws, disproportionate targeting members of these groups by law enforcement agencies, and inequitable sentencing in the nation's courts. For example, a 1991 investigation of 700,000 criminal cases in the State of California found that "whites as a group get significantly better deals than Hispanics or blacks who are accused of similar crimes and who have similar backgrounds". ^{3/} After analysing its database in criminal cases, the United States Sentencing Commission, a federal agency, concluded in 1991 that "the difference (in length of sentences) found across race seems to have increased since 1984". ^{4/}

Race and the application of the death penalty

4. The role that race continues to play in the administration of the death penalty in the United States has long been a matter of concern to United States domestic organizations and international human rights groups. Statistical evidence consistently demonstrates that the race of the victim continues to be a decisive factor in determining whether a death sentence will be issued, and an increasing body of evidence indicates that black defendants in some jurisdictions are considerably more likely than white defendants to receive death sentences for comparable crimes.

5. Racial inequality in the enforcement of United States drug laws has also resulted in what appears to be a disproportionate use of the federal death penalty mandated for drug "kingpins" in cases involving minorities. According to a March 1994 study conducted by a United States congressional committee, "Racial minorities are being prosecuted under federal death penalty law far beyond their proportion in the general population or the population of criminal offenders. Analysis of prosecutions from 1988-1994 under the federal death penalty provisions of the Anti-Drug Abuse Act of 1988 reveals that 89 per cent of the defendants selected for capital prosecutions have been either African-American or Mexican-American. Moreover, the number of prosecutions under this Act has been increasing over the past two years with no decline in the racial disparities. All 10 of the recently approved capital prosecutions have been against black defendants." ^{5/}

Race and police misconduct

6. Police misconduct and abuse, especially in communities of predominantly African American or Hispanic populations, is one of the most pressing civil liberties issues in the United States. Through targeted enforcement, which includes sweeps through minority areas, the targeting of black males for humiliating searches or "stops and frisks", and the creation of criminal profiles that invariably focus on African Americans and Hispanics, police officials appear to have allowed their bias to dictate law enforcement strategy in some cases. Too often, police officers make remarks that reveal such racial bias.

7. Historically, the federal Government has paid scant attention to the problem of police abuse. Legislation dating from the Reconstruction era (the period immediately after the United States civil war) authorizes federal prosecution of law enforcement officials who "wilfully" deprive people of

their constitutional rights. Federal law (18 United States Code Sections 241 and 242) permits federal prosecution of civil rights violations committed "under colour of law", which include police brutality. Under that authority, the Justice Department brings a small number of civil rights prosecutions each year, but these cases appear to be only a small proportion of the many incidents of violations of civil rights each year. According to Justice Department data, of some 11,000 complaints reviewed under these statutes in 1994, a scant 65 cases were filed for prosecution - half of 1 per cent. 6/

Race and the prosecution of drug offences

8. Although United States criminal drug laws are neutral on the face of it, they have had a remarkably discriminatory impact. Drug offence sentences are the single most important cause in the steadily increasing percentage of prison and jail populations that are African American and the decreasing percentage of whites in the prison population. Non-white Americans are arrested, prosecuted, convicted and imprisoned for drug crimes far out of proportion to their numbers among the general population or within the population of drug users. For example, although African Americans make up only 13 per cent of United States drug users, they represent 35 per cent of narcotics arrests, 55 per cent of convictions, and 74 per cent of those receiving prison sentences. 7/

9. The impact on the African American community of drug arrests and prosecutions is magnified by the fact that blacks are disproportionately charged with offences which Congress has singled out for especially severe punishment - the sale and use of crack cocaine. In establishing penalties for drug offences, Congress has singled out possession and distribution of crack cocaine for much harsher punishment than any other form of cocaine - or any other controlled substance. It takes 100 times more powder cocaine than crack cocaine to trigger the same mandatory minimum penalty. In addition, simple possession by a first-time offender of crack cocaine triggers a minimum sentence of five years, whereas simple possession of powder cocaine or any other controlled substance is only a misdemeanour, punishable by a maximum of one year in prison.

10. According to the United States Sentencing Commission, in 1993, 88.3 per cent of crack trafficking defendants in federal courts were black and 4.1 per cent were white. Eighty-five per cent of defendants convicted of simple possession of crack were black; 10.3 per cent were white. 8/ These figures are particularly disturbing in light of the annual surveys conducted by the National Institute for Drug Abuse (NIDA), which consistently indicate that more than half of all crack cocaine users are white. The most recent findings on drug use indicate that in 1994, 62 per cent of current cocaine users were white, 22 per cent were black and 16 per cent were Hispanic. 9/ In addition to the discriminatory impact of the 100 to 1 ratio in mandatory minimum sentencing laws and the over-targeting of drug enforcement efforts against communities of predominantly African American or Hispanic populations, prosecutorial discretion appears to cause further discrimination.

Race and super-maximum security housing in prison

11. Both State and federal detention facilities in the United States are increasing the use of segregated housing for administrative and disciplinary purposes. Certain segregated housing units subject prisoners to extreme sensory deprivation, including near-total isolation from other prisoners, minimal (or no) time outdoors, deprivation of reading materials and recreational facilities, little ventilation, and continuous lighting all night long. Known as "maxi-maxis" in prison jargon, these super-maximum security units are used variously throughout the United States for administrative and disciplinary infractions. Maxi-maxis have been the subject of numerous lawsuits, some of which have resulted in findings of cruel and inhuman treatment of those so detained. 10/

12. Although Human Rights Watch has not conducted a statistical analysis of the racial breakdown of assignment to super-maximum security housing, the discretionary nature of the process for assigning prisoners to super-maximum security housing and anecdotal evidence based on examination of several State prison facilities suggest that at least in some institutions, prisoners of African American or Hispanic origin are particularly vulnerable to receiving this treatment at the caprice of prison authorities. A survey of prisoners, prison guards and prisoners' visitors and families in 41 States, conducted by Dr. Mark Hamm of the Indiana State University's Department of Criminology, revealed that "the most frequently disciplined groups of prisoners are jailhouse lawyers, Black prisoners, and prisoners with mental handicaps. There is no significant variation by State or region". 11/

13. In New Jersey, for example, prisoners' use of Afrocentric symbols, Swahili words, and red and green maps of Africa are all considered "paramilitary" by prison officials and thus deemed particularly dangerous. The New Jersey State Prison Management Control Unit (MCU) holds 75 inmates who are considered a "threat to institutional security". The MCU is reserved for those who *might* pose a threat and those identified for this amorphous category are overwhelmingly (95 per cent) African American in a prison where the overall African American population is 64 per cent. None has been accused of taking part in any violent act nor of breaking a prison rule.

Notes

1/ Marc Mauer and Tracy Huling, "Young Black Americans and the Criminal Justice System: Five Years Later", The Sentencing Project, Washington, D.C., 1995.

2/ Marc Mauer, "Young Black Men and the Criminal Justice System: A Growing National Problem", The Sentencing Project, Washington, D.C., 1990.

3/ Christopher Schmitt, "Plea Bargaining Favors Whites, as Blacks, Hispanics Pay Price", *San Jose Mercury News*, 8 December 1991.

4/ "United States Sentencing Commission Report on Mandatory Minimum Sentencing and Race", United States Sentencing Commission, Washington, D.C., 1991.

5/ "Racial Disparities in Federal Death Penalty Prosecutions, 1988-1994", Staff Report by the House Subcommittee on Civil and Constitutional Rights, Committee on the Judiciary, Washington, D.C., March 1994.

6/ 1995 Department of Justice Congressional Authorization and Budget Submission, Volume I, Civil Rights Division.

7/ Mauer and Huling, p. 12.

8/ United States Sentencing Commission, "Special Report to the Congress: Cocaine and Federal Sentencing Policy" Washington, D.C., February 1995.

9/ Substance Abuse and Mental Health Services Administration, United States Department of Health and Human Services, "Preliminary Estimates from the 1994 National Household Survey on Drug Abuse", Washington, D.C., September 1995, p. 20.

10/ See, for example, Madrid v. Gomez, No. C90-3094-THE (Northern District of California, 1995).

11/ Mark Hamm, Therese Coupez, Francis Hoze, and Corey Weinstein, "The Myth of Humane Imprisonment: A Critical Analysis of Severe Discipline in Maximum Security Prisons", *Prison Violence in America* (Cincinnati, Ohio: Anderson Publishing Company, 1994), pp. 167-200.



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COMMISSION ON HUMAN RIGHTS
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Item 20 of the provisional agenda

RIGHTS OF THE CHILD

Written statement submitted by the International Federation
of Human Rights Leagues, a non-governmental organization in
consultative status (category II)

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[27 March 1996]

1. The International Federation of Human Rights (FIDH) has followed the work of the Committee on the Rights of the Child closely. The organization remains concerned about a number of countries which, despite signing the Convention on the Rights of the Child, fall short of their obligations under the treaty. A particular concern is the significant gap between laws adopted to implement the Convention and the practical application of those laws to the actual situation of children.

2. This major issue is reflected in particular by the situation of children in Pakistan, in Colombia - which was taken up by the Committee on the Rights of the Child in January 1995 - and in China, the initial report of which will be considered in May 1996.

3. FIDH welcomes the enactment of laws and regulations to protect children in these countries, including Pakistan's Bonded Labour (Abolition) Act (1992), Colombia's Code for Minors (1990), and China's Protection of Minors Act (1991) and Law on the Protection of Women's Rights and Interests (1992).

4. However, despite detailing the provisions of these laws and providing a few selective statistics, China's and Colombia's reports fail to live up to the Convention's requirements listed in article 44. Reports are lacking in information about how the laws and regulations are enforced. They also skip over some of the serious deficiencies which exist in the protection of the rights of children, in particular the problems of trafficking, child abuse, arbitrary detention of juveniles, the growing use of child labour and the serious imbalances in sex ratios at birth.

5. Restrictions on what can be reported in the Chinese domestic media, such as prohibitions on "negative" news, as well as controls on individual freedom of expression and association mean that there is little independent monitoring of children's rights. Likewise, in its concluding observations on Colombia, the Committee strongly advised the Government to "enlist the support of NGOs and other private organizations in raising public awareness of the rights of the child and in monitoring enforcement of the laws".

Implementation of laws and regulations

6. In Pakistan, according to the Human Rights Commission of Pakistan "despite the Bonded Labour (Abolition) Act of 1992, forced labour continues to be practised on a wide scale ... The size of it was estimated in the region of 20 million". In rural carpet-weaving centres, the majority of bonded workers are children. Despite national laws banning bonded labour and pledges to end all forms of child labour, the Government of Pakistan aggressively promotes the export of rugs made by such workers. Furthermore, it consistently fails to prosecute parents or other individuals involved in holding children in bondage.

7. In China, protective laws, such as the 1991 Protection of Minors Act, depend primarily on administrative measures for their implementation, without providing harmed individuals with direct legal remedies. Secondly, laws and regulations subject to administrative enforcement are widely ignored by official bodies. Finally, even violations of the Criminal Law may not be pursued if this is not seen as being in the interests of the Party, the State or individual officials. For example, in certain areas courts have been ordered not to accept cases involving violations of rights related to the population control policies.

8. The absence of a truly impartial judiciary makes monitoring of law enforcement virtually impossible. In China, existing supervisory systems, particularly the procuracy, are interconnected with the political authorities and thus do not exercise these functions in a proper manner. Likewise, Colombia and Pakistan lack effective mechanisms to monitor law enforcement. Therefore the gap between law and practice remains unacceptably wide.

Juvenile justice

9. Although some safeguards for the treatment of juvenile suspects and offenders have been enacted - the Protection of Minors' Act (1991) in China, and the Code for Minors (1990) in Colombia - most are overly vague, provide insufficient protection or are not translated into action. In Colombia, the Government failed to provide the necessary facilities and funding to implement the Code for Minors.

10. Many articles of the Chinese Criminal Procedure Law do not make any special provisions for juveniles. As for adult detainees, family notification is required when juveniles are detained, but no provisions grant access to minors by parents during their pretrial detention, in violation of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"). According to the Criminal Procedure Law, defendants are still only allowed access to lawyers when a trial date has been set, a minimum of one week before the trial opens, despite a long campaign by Chinese legal experts to allow earlier access.

11. Under Re-education Through Labour, juveniles aged 16 to 18 may be held for up to four years together with adults for "crimes" not subject to prosecution. Re-education Through Labour has been judged by the Working Group on Arbitrary Detention to be "inherently arbitrary".

12. Juveniles are also subject to various forms of arbitrary detention, at the discretion of the Public Security Bureau police, despite the statement in China's report that only those convicted by a court are admitted to "juvenile correctional facilities".

Discrimination

13. As China's report makes clear, discrimination on the grounds of sex and disability are legally prohibited, in particular by the Law on the Protection of Women's Rights and Interests, the Protection of the Disabled Act, and the Protection of Minors Act. However, legal provisions on discrimination are not enforced. Discrimination against girl children is a problem based in social and cultural attitudes, but is exacerbated by the Government's "one-child" policy. These factors have resulted in seriously skewed male-female sex ratios at birth. Human rights groups estimate that over half a million girl children are "missing" every year as a result of sex-selective abortion, infanticide, death through neglect, abandonment and non-registration. Although China's report mentions infanticide and abandonment, it does not give any estimation of their extent.

14. Children of families who have "out of plan" births are subject to discriminatory treatment. They may not be given a "residence registration" (hukou), without which they are not eligible for free education, health benefits and other subsidies. Without this registration such children do not have a legal identity, as required by the Convention on the Rights of the Child. China's report does not mention this issue.

Survival and health

15. Reports of very late-term abortions performed in execution of China's population policies continue to reach FIDH. In some cases, such abortions constitute an officially-sanctioned form of infanticide. Most provincial laws and regulations on the population policy do not place any time limits for abortions, and no national law or regulation containing such limits has been enacted. According to information provided to FIDH, children born alive as a result of such abortions have been killed by medical personnel after birth.

16. In Colombia the Committee recommended that firm measures be taken "to ensure the right to survival", in order to protect children against "violence, disappearance, assassination or alleged organ trafficking". Part of these violent acts are performed by the Colombian authorities. As a result of what is known as "social cleansing", hundreds of street children are murdered every year by criminal groups.

17. In Pakistan, around 75 per cent of child workers in the carpet-weaving industry suffer from work-related diseases; 70 per cent acknowledge having been beaten by either their parents or their employers. Sexual assaults are common. Many of these children suffer from retardation of mental and physical growth. Furthermore, there are cases of children being used for the transportation of food, fuel and even rugs, across the Afghan border. Instances of young children forcibly sent to wage "jihad" in Kashmere are reported each year.

Trafficking

18. In Pakistan, although children are usually sold into bondage by their parents, often as a result of indebtedment, in certain cases bonded children are abducted by contractors or employers.

19. Trafficking in women and children has grown substantially in China since the late 1970s. Although officials claimed to have diminished the trade, every year tens of thousands of girls and women are trafficked to be sold either as wives or into prostitution, while children (primarily infants) are trafficked to be sold as "adopted children".

20. FIDH contends that passing laws and regulations to protect children is not sufficient: implementation of the Convention requires that they be enforced. FIDH has consistently called for full implementation of existing laws and regulations as a first step towards proper protection of human rights. FIDH urges the Commission to examine the situation of arbitrary detention of juveniles, child trafficking, child labour and child abuse resulting from population control policies in all countries where these abuses are reported, and to impress on States that the protection of the rights of the child requires the enforcement, as well as the passage, of laws.
